

FILE COPY

STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF THE DISCIPLINARY
PROCEEDINGS AGAINST

JOSEF F. VOSMEK, M.D.,
RESPONDENT.

FINAL DECISION AND ORDER

LS 9804223MED

Division of Enforcement
97 MED 093

The parties to this proceeding for purposes of sec. 227.53, Stats., are:

Josef F. Vosmek, M.D.
106 5th Avenue South, #275
Strum, WI 54770

Wisconsin Medical Examining Board
1400 E. Washington Ave.
P.O. Box 8935
Madison, WI 53708-8935

Department of Regulation and Licensing
Division of Enforcement
1400 E. Washington Ave.
P.O. Box 8935
Madison, WI 53708-8935

The Wisconsin Medical Examining Board received a Stipulation submitted by the parties to the above-captioned matter. The Stipulation, a copy of which is attached hereto, was executed by Josef F. Vosmek, M.D., personally, and by his attorney, Thomas Bilsky; and by Gilbert C. Lubcke, attorney for the Department of Regulation and Licensing, Division of Enforcement. Based upon the Stipulation of the parties, the Wisconsin Medical Examining Board makes the following Findings of Fact, Conclusions of Law and Order.

FINDINGS OF FACT

1. Josef F. Vosmek, M.D., 106 5th Avenue South, #275, Strum, Wisconsin, 54770, was born on 5/24/39, and has been licensed to practice medicine and surgery in the state of Wisconsin since 10/30/69, licensee #17029. Dr. Vosmek's registration expired on 10/31/95 and he has not been currently registered to practice medicine and surgery in the state of Wisconsin since 10/31/95.

2. Dr. Vosmek specializes in family practice.

3 On 4/4/96, a patient, J.B., presented at Dr. Vosmek's office complaining of a sore throat. Dr. Vosmek examined the patient and performed a strep screening test which was negative. Dr. Vosmek did not provide any treatment at that time but recommended that the patient drink fluids. On 4/8/96, the patient contacted Dr. Vosmek by telephone and informed him that she still had a sore throat and that she had developed a headache. Dr. Vosmek had the patient come to his office where he examined the patient and ordered a mono test. The result of the mono test was negative.

4. On 4/25/96, a patient, R.E., presented at Dr. Vosmek's office with a recent history of dysuria. Dr. Vosmek obtained a urine specimen from the patient. Dr. Vosmek noted that the urine was cloudy and a microscopic examination disclosed a large number of red blood cells in the urine. Dr. Vosmek made a diagnosis of cystitis and prescribed Septra DS. On 3/7/97, the patient returned to Dr. Vosmek's office with a lesion on her right forearm which she wanted removed. Dr. Vosmek examined the lesion and noted from the history that he had obtained from the patient that the lesion had not shown any changes. Dr. Vosmek excised the lesion and submitted the specimens to a pathology laboratory where they were determined to be seborrheic keratosis with chronic inflammation. On 3/17/97, Dr. Vosmek removed the sutures he had placed at the time he excised the lesion.

5. A patient, W.F., had chronic hypertension which Dr. Vosmek monitored and treated. Dr. Vosmek examined the patient, took his blood pressure and continued the prescription of blood pressure medications on 1/9/96, 4/18/96, 8/22/96, 12/13/96, 2/7/97, 10/5/97 and 1/13/98. On 9/16/96, Dr. Vosmek ordered a potassium level which was in the normal range. On 6/23/97, the patient presented with a lesion on his left ear. Dr. Vosmek examined the lesion and made a diagnosis of cutaneous horn. He recommended removal of the lesion.

6. On 11/8/96, a patient, N.F., presented at Dr. Vosmek's office with a history of hypertension. Dr. Vosmek examined the patient and prescribed a medication for the patient's elevated blood pressure. Dr. Vosmek also drew blood from the patient for a cholesterol test. Dr. Vosmek continued to monitor the patient's hypertension by taking the patient's blood pressure on 2/6/97, 5/22/97, 10/20/97 and 1/27/98 and renewed the patient's prescription for the blood pressure medication on each of these occasions.

7. On 11/1/96, a patient, D.H., presented at Dr. Vosmek's office with a history of hypertension. Dr. Vosmek examined the patient and prescribed a medication for the patient's elevated blood pressure. He continued to monitor the patient's blood pressure and to renew his prescription for blood pressure medications on 1/3/97, 3/6/97 and 5/22/97. On 3/6/97 and on 5/22/97, Dr. Vosmek also drew blood from the patient for cholesterol testing. Dr. Vosmek received and reviewed the results of the cholesterol testing.

8. The conduct as described in paragraphs 3 through 7 of these Findings of Fact constitutes the practice of medicine and surgery.

CONCLUSIONS OF LAW

1. The Wisconsin Medical Examining Board has jurisdiction in this proceeding pursuant to sec. 448.02, Stats.
2. The Wisconsin Medical Examining Board has the authority to resolve this proceeding by Stipulation without an evidentiary hearing pursuant to sec. 227.44(5), Stats.
3. Dr. Vosmek's conduct as set forth in the Findings of Fact constitutes a violation of sec. 448.07(1)(a), Stats. and Wis. Admin. Code secs. MED 14.06 and MED 10.02(2)(a) in that he engaged in the practice of medicine and surgery in the state of Wisconsin when not currently registered.

ORDER

NOW, THEREFORE, IT IS ORDERED that the Stipulation of the parties is approved.

IT IS FURTHER ORDERED that Josef F. Vosmek's license to practice medicine and surgery in the state of Wisconsin, license #17029, is SUSPENDED for 90 days from the date of this Final Decision And Order or until Dr. Vosmek presents evidence satisfactory to the Wisconsin Medical Examining Board that he has met all of the requirements for renewal of his registration and he is, in fact, currently registered, whichever period of suspension is greater.

IT IS FURTHER ORDERED that prior to the renewal of his registration, Josef F. Vosmek, M.D. will appear before the Wisconsin Medical Examining Board to present documentation to the Board demonstrating that he has satisfied all of the prerequisites for renewal of his registration as required by the Wisconsin Statutes and the Wisconsin Administrative Code and that he has complied with all of the terms of this Final Decision And Order.

IT IS FURTHER ORDERED that Josef F. Vosmek, M.D. will not practice or attempt to practice medicine and surgery in the state of Wisconsin while his license is suspended.

IT IS FURTHER ORDERED that Josef F. Vosmek, M.D. will file affidavits with the Wisconsin Medical Examining Board by the tenth day of each calendar month while his license remains suspending stating under oath that he has not engaged in the practice of medicine and surgery in the state of Wisconsin during the preceding calendar month. These affidavits will be filed by mailing, faxing or delivering them to:

Department Monitor
Department of Regulation and Licensing
Division of Enforcement
1400 East Washington Ave.
P.O. Box 8935
Madison, WI 53708-8935

IT IS FURTHER ORDERED that pursuant to sec. 448.02(4), Stats., if the Wisconsin Medical Examining Board determines that there is probable cause to believe that Dr. Vosmek has violated the terms of this Final Decision and Order of the Wisconsin Medical Examining Board, the Board may order that the license of Josef F. Vosmek, M.D. to practice medicine and surgery in the state of Wisconsin be summarily suspended or that the presently existing suspension be continued pending investigation of the alleged violation. Josef F. Vosmek, M.D. is further advised that any violation of this Order may result in further disciplinary action and may also subject Dr. Vosmek to criminal prosecution pursuant to sec. 448.09(1), Stats.

The rights of a party aggrieved by this Final Decision And Order to petition the Wisconsin Medical Examining Board for rehearing and to petition for judicial review are set forth in the attached "Notice of Appeal Information".

Dated at Madison, Wisconsin, this 22 day of April, 1998.

WISCONSIN MEDICAL EXAMINING BOARD

Nanda Kauer

Member, Wisconsin Medical Examining Board

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STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF THE DISCIPLINARY
PROCEEDINGS AGAINST

JOSEF F. VOSMEK, M.D.,
RESPONDENT.

STIPULATION

Division of Enforcement
97 MED 093

It is hereby stipulated between Josef F. Vosmek, M.D., personally, and by his attorney, Thomas Bilsky; and Gilbert C. Lubcke, attorney for the Department of Regulation and Licensing, Division of Enforcement, as follows:

1. Josef F. Vosmek, M.D., 106 5th Avenue South, #275, Strum, Wisconsin, 54770, was born on 5/24/39 and has been licensed to practice medicine and surgery in the state of Wisconsin since 10/30/69, license #17029. Dr. Vosmek's registration expired on 10/31/95 and he has not been currently registered to practice medicine and surgery in the state of Wisconsin since 10/31/95.
2. An investigation, 97 MED 093, is pending before the Wisconsin Medical Examining Board.
3. Dr. Vosmek consents to the entry of a Final Decision and Order, a copy of which is attached hereto and incorporated herein.
4. The parties waive all costs of this proceeding.
5. Dr. Vosmek understands that by signing this Stipulation, he freely, voluntarily and knowingly waives his rights, including the right to a hearing on the allegations against him, the right to confront and cross-examine witnesses against him, the right to call witnesses on his behalf and to compel their attendance by subpoena, the right to testify on his own behalf, the right to file objections to any proposed decision and to present briefs or oral arguments to the officials who are to render the Final Decision and Order, the right to petition for rehearing, the right to judicial review, and all other applicable rights afforded to him under the United States Constitution, the Wisconsin Constitution, the Wisconsin Statutes, and the Wisconsin Administrative Code.
6. The parties to this Stipulation and the Case Advisor, Wanda Roever, may appear before the Wisconsin Medical Examining Board in support of this Stipulation. Any appearance by any party pursuant to this paragraph will be preceded by proper and timely notice to all parties to this proceeding.

7. This Stipulation is subject to approval by the Case Advisor, Wanda Roevers, and by the Supervisor of Attorneys in the Division of Enforcement, and acceptance by the Wisconsin Medical Examining Board.

8. If any term of this Stipulation or the incorporated Final Decision and Order is not approved by the Case Advisor and by the Supervisor of Attorneys, and accepted by the Wisconsin Medical Examining Board, then no term of this Stipulation or the Final Decision and Order will be binding in any manner on any party, and the matter will be returned to the Division of Enforcement for further proceedings.

Dated: 4/4/98

Josef F. Vosmek M.D.
Josef F. Vosmek, M.D.
Respondent

Dated: 4/16/98

Thomas Bilsky
Thomas Bilsky
Attorney for Respondent

Dated: 4/20/98

Gilbert C. Lubcke
Gilbert C. Lubcke
Attorney for the Department of Regulation and
Licensing, Division of Enforcement

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STATE OF WISCONSIN
DEPARTMENT OF REGULATION AND LICENSING
BEFORE THE MEDICAL EXAMINING BOARD

In the Matter of the Disciplinary Proceedings Against

Josef F. Vosmek, M.D.,

AFFIDAVIT OF MAILING

Respondent.

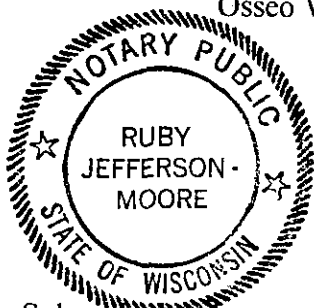
STATE OF WISCONSIN)
)
COUNTY OF DANE)

I, Kate Rotenberg, having been duly sworn on oath, state the following to be true and correct based on my personal knowledge:

1. I am employed by the Wisconsin Department of Regulation and Licensing.

2. On April 24, 1998, I served the Final Decision and Order dated April 22, 1998, LS9804223MED, upon the Respondent Josef F. Vosmek's attorney by enclosing a true and accurate copy of the above-described document in an envelope properly stamped and addressed to the above-named Respondent's attorney and placing the envelope in the State of Wisconsin mail system to be mailed by the United States Post Office by certified mail. The certified mail receipt number on the envelope is P 221 159 450.

Thomas Bilsky, Attorney
Ward & Associates
P.O. Box 218
Osseo WI 54758



Kate Rotenberg
Kate Rotenberg
Department of Regulation and Licensing
Office of Legal Counsel

Subscribed and sworn to before me

this 24th day of April, 1998.

Ruby Jefferson-Moore
Notary Public, State of Wisconsin
My commission is permanent.

NOTICE OF RIGHTS OF APPEAL

TO: THOMAS BILSKY ATTY

You have been issued a Final Decision and Order. For purposes of service the date of mailing of this Final Decision and Order is 4/24/98. Your rights to request a rehearing and/or judicial review are summarized below and set forth fully in the statutes reprinted on the reverse side.

A. REHEARING.

Any person aggrieved by this order may file a written petition for rehearing within 20 days after service of this order, as provided in section 227.49 of the Wisconsin Statutes. The 20 day period commences on the day of personal service or the date of mailing of this decision. The date of mailing of this Final Decision is shown above.

A petition for rehearing should name as respondent and be filed with the party identified below.

A petition for rehearing shall specify in detail the grounds for relief sought and supporting authorities. Rehearing will be granted only on the basis of some material error of law, material error of fact, or new evidence sufficiently strong to reverse or modify the Order which could not have been previously discovered by due diligence. The agency may order a rehearing or enter an order disposing of the petition without a hearing. If the agency does not enter an order disposing of the petition within 30 days of the filing of the petition, the petition shall be deemed to have been denied at the end of the 30 day period.

A petition for rehearing is not a prerequisite for judicial review.

B. JUDICIAL REVIEW.

Any person aggrieved by this decision may petition for judicial review as specified in section 227.53, Wisconsin Statutes (copy on reverse side). The petition for judicial review must be filed in circuit court where the petitioner resides, except if the petitioner is a non-resident of the state, the proceedings shall be in the circuit court for Dane County. The petition should name as the respondent the Department, Board, Examining Board, or Affiliated Credentialing Board which issued the Final Decision and Order. A copy of the petition for judicial review must also be served upon the respondent at the address listed below.

A petition for judicial review must be served personally or by certified mail on the respondent and filed with the court within 30 days after service of the Final Decision and Order if there is no petition for rehearing, or within 30 days after service of the order finally disposing of a petition for rehearing, or within 30 days after the final disposition by operation of law of any petition for rehearing. Courts have held that the right to judicial review of administrative agency decisions is dependent upon strict compliance with the requirements of sec. 227.53 (1) (a), Stats. This statute requires, among other things, that a petition for review be served upon the agency and be filed with the clerk of the circuit court within the applicable thirty day period.

The 30 day period for serving and filing a petition for judicial review commences on the day after personal service or mailing of the Final Decision and Order by the agency, or, if a petition for rehearing has been timely filed, the day after personal service or mailing of a final decision or disposition by the agency of the petition for rehearing, or the day after the final disposition by operation of the law of a petition for rehearing. The date of mailing of this Final Decision and Order is shown above.

The petition shall state the nature of the petitioner's interest, the facts showing that the petitioner is a person aggrieved by the decision, and the grounds specified in section 227.57, Wisconsin Statutes, upon which the petitioner contends that the decision should be reversed or modified. The petition shall be entitled in the name of the person serving it as Petitioner and the Respondent as described below.

SERVE PETITION FOR REHEARING OR JUDICIAL REVIEW ON:

STATE OF WISCONSIN MEDICAL EXAMINING BOARD

1400 East Washington Avenue

P.O. Box 8935

Madison WI 53708-8935